

RECEIVED  
CDNY PROSECUTOR'S OFFICEUnited States District Court  
Southern District of New York

Peter Rodriguez

Plaintiff,

-against-

City of New York, et al,

Defendants.

PLAINTIFFS OPPOSITION  
to DEFENDANTS MOTION  
for SUMMARY JUDGEMENT.  
20cv11045  
(GBD)(SDA)

your Honor,

I AM THE PLAINTIFF OF THE ABOVE REFERENCED MATTER. I AM WRITTING THIS OPPOSITION TO THE DEFENDANTS MOTION FOR SUMMARY JUDGEMENT. THE PLAINTIFF BROUGHT THIS ACTION TO THE COURT AFTER DEFENDANTS BRAD SHAW, LOUIS AND CITY OF NEW YORK VIOLATED THE PLAINTIFFS FEDERAL CONSTITUTIONAL RIGHTS GUARANTEED TO EVERY CITIZEN OF THE UNITED STATES. ON JANUARY, 17, 2019 THE PLAINTIFF WAS TRANSPORTED FROM GEORGE R. VIERNO CENTER WHICH DEFENDANT ~~WENT~~ LOUIS WAS TOUR COMMANDER AT THE TIME AND WENT TO OTIS BANTUM CORRECTION CENTER BY TRANSPORT DRIVER DEFENDANT BRADSHAW. BOTH THE FACILITIES MENTIONED

AS WELL AS THE DEFENDANTS MENTIONED ARE UNDER DIRECT MUNICIPAL CONTROL OF THE CITY OF NEW YORK. THE PLAINTIFF WAS DENIED ENTRY TO THE O.B.C.C. FACILITY IN WHICH MADE DEFENDANT BRADSHAW RATE AND THEN PLAINTIFF WAS ROUGHLY ESCORTED BACK TO THE TRANSPORT BUS AND ASSAULTED ON THE BUS BY DEFENDANT BRADSHAW. THE PLAINTIFF WAS THEN TRANSPORTED BACK TO G.R.V.C. AND LEFT ON THE BUS AFTER BEING ASSAULTED IN THE FREEZING COLD OF JANUARY ALL NIGHT IN THE BUS YARD OUTSIDE OF THE FACILITY AND NOT PROVIDED ANY MEDICAL ATTENTION BY THE ORDER OF DEFENDANT LOUIS WHO WAS THE FOUR COMMANDER OF G.R.V.C AT THAT TIME.

THE DEFENDANTS STATE IN POINT 1 THAT THE PLAINTIFF DID NOT EXHAUST HIS ADMINISTRATIVE REMEDIES. THIS POINT IS MISLEADING AND DEFINITELY INCORRECT. UNFORTUNATELY ~~(P)~~ CATEGORIES NOT SUBJECT TO THE GRIEVANCE PROCESS INCLUDE: (1) ASSAULT ALLEGATIONS, (2) SEXUAL ABUSE OR HARASSMENT (PREG) (3) HARASSMENT ALLEGATIONS, (4) STAFF COMPLAINTS (SEE EXHIBIT A-1, A-2) EVEN THOUGH THE PLAINTIFF'S INABILITY TO FILE A GRIEVANCE BECAUSE HE WAS NEVER HOUSED IN A HOUSING UNIT. AND WAS

WAS LEFT IN INTAKE FOR OVER A WEEK THE PLAINTIFF CALLED HIS FIANCÉ AND THE PLAINTIFF'S FIANCÉ CALLED "311" AND FILED A GRIEVANCE FOR THE PLAINTIFF WHICH IS ALLOWED AND MENTIONED IN (EXHIBIT A-2) AND EVIDENCE OF THAT CALL IS SHOWN IN (EXHIBIT A-3). SINCE THE PLAINTIFF'S GRIEVANCE WAS NOT SUBJECT TO THE GRIEVANCE PROCESS THE PLAINTIFF COULD NOT CONTINUE WITH THE GRIEVANCE PROCEDURE WHICH IS ALSO STATED IN THE ("DECLARATION OF GREGORY ACCARINO IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT #3, EXHIBIT B PAGES 2 AND 8) NOT ONLY DID THE DEFENDANTS PROVIDE AN EXHIBIT SHOWING THE PLAINTIFF COULD NOT CONTINUE THE GRIEVANCE PROCEDURE BUT THE PLAINTIFF WAS NEVER GIVEN AN INSTRUCTION ON HOW OR WHAT TO DO TO CONTINUE THE PROCESS AND AFTER THE PLAINTIFF FILED THE GRIEVANCE A WHOLE INVESTIGATION OCCURRED IN REGARDS TO THIS CLAIM BROUGHT INTO THIS COURT, (SEE EXHIBIT A-3).

IN POINT II THE DEFENDANTS CLAIM THAT THE DELIBERATE INDIFFERENCE CLAIM DOES NOT RISE TO THE LEVEL OF FOURTEENTH AMENDMENT VIOLATION. THEY ARE MORE THAN UPONS.

THE PLAINTIFF SATISFIED THE TWO PRONGS TO ESTABLISH HIS DELIBERATE INDIFFERENCE CLAIM WAS MORE THAN SUFFICIENT. THE COURT, I BELIEVE WOULD DEFINITELY AGREE THAT THE CONDITIONS THE PLAINTIFF ~~WAS~~ LEFT IN WAS SERIOUSLY ENOUGH TO ESTABLISH THE "OBJECTIVE PRONG", AFTER BEING ASSAULTED BY DEFENDANT BRADSHAW BY BEING PUNCHED MULTIPLE TIMES IN THE HEAD AND BEATEN WITH A PAIR OF HANDCUFFS AND THEN LEFT IN A BUS ALL NIGHT WITHOUT BEING PROVIDED MEDICAL I BELIEVE ANY JURY WOULD FIND SUCH CONDITIONS ARE DELIBERATELY INDIFFERENT AND A DEPRIVATION OF DUE PROCESS. THE PLAINTIFF WAS NOT PROVIDED MEDICAL CARE UNTIL THE NEXT DAY MORE THAN A ~~12~~ 12 HOURS LATER AFTER THE EXCESSIVE FORCE OCCURRED AND WAS NEVER REPORTED BY DEFENDANT Bradshaw WHICH MORE THAN SATISFIES THE "SUBJECTIVE PRONG", BECAUSE AFTER USING FORCE ON A ~~INMATE~~ DEFENDANT Bradshaw IS MANDATED BY LAW, DEPARTMENT DIRECTIVES AND THE NINE<sup>TH</sup> FEDERAL MANDATE TO REPORT ANY SUCH USE OF FORCE AND THEN AN<sup>OTHER</sup> INJURY REPORT MUST BE GENERATED, NO SUCH REPORT

Documents

WAS GENERATED UNTIL THE NEXT DAY WHEN THE PLAINTIFF HIMSELF CLAIMED INJURIES AND REQUESTED MEDICAL (SEE EXHIBIT A-4). NOT ONLY DID DEFENDANT Bradshaw NOT REPORT THE VIOLENT ASSAULT AND USE ~~OF~~ FORCE BUT ALSO LIED ON GOVERNMENT'S STATEMENT THAT "HE DID NOT USE ANY FORCE ON PLAINTIFF" BUT AFTER A REVIEW AND INVESTIGATION OF THE PLAINTIFF'S COMPLAINT IT WAS FOUND THE DEFENDANT Bradshaw HAD A PHYSICAL ALTERCATION WITH THE PLAINTIFF, (SEE EXHIBIT A-3) IN WHICH SHOWS NOT ONLY WAS DEFENDANT Bradshaw FALSIFYING GOVERNMENT DOCUMENTS BUT ALSO UTILIZING EXCESSIVE FORCE VIOLATING DEPARTMENT DIRECTIVES LIKE HE HAS MANY TIMES BEFORE AND HAS MADE A HABIT OF IT MORE THAN 2 TIMES WHICH HIS DEPARTMENT DISCIPLINARY REPORT WILL SUPPORT THIS, (SEE EXHIBIT B1, EXHIBIT C, AND EXHIBIT D). ALL STATED HERE CLEARLY ESTABLISHES THAT DEFENDANT Bradshaw VIOLATED LAW AS WELL AS DEPARTMENT OF CORRECTIONS DIRECTIVES:

(1) Directive 5006-R section IV, B.1, (2) Directive 5006-R, section IV, B.2, (3) Directive 5006-R

SECTION V.F:3, ④ RULES AND REGULATIONS  
4.30.020, (SEE EXHIBIT F) AND THEREFORE  
THE DEFENDANTS STATING IN POINT III  
THAT DEFENDANT BRADSHAW IS ENTITLED  
TO QUALIFIED IMMUNITY TO THE PLAINTIFFS  
DELIBERATE INDIFERENCE CLAIM IS ABSURD.  
even though in Livigni v. Ortega, NO. 15-cv-9454  
(cm), 2016 (SDNY Oct 19, 2016) JUDGE COLLEEN  
of the southern District of New York  
DETERMINED THAT "Leaving inmates in a  
transport bus overnight MAY BE, THIS COURT  
IS COMPELLED TO CONCLUDE THAT IT DOES NOT,  
STANDING ALONE, CONSTITUTE A VIOLATION,"  
BUT, I KNOW FOR CERTAIN THAT LEAVING AN INMATE  
ON A BUS OVERNIGHT AFTER BEING ASSAULTED  
AND BEATEN WITH HANDCUFFS AND NOT  
BEING PROVIDED MEDICAL ASSISTANCE WOULD  
DEFINITELY RISE TO A CONSTITUTIONAL  
VIOLATION AND I BELIEVE ANY JURY  
WOULD BELIEVE SO.

POINT IV THE DEFENDANTS STATES THE  
COURT SHOULD DISMISS SUPERVISORY LIABILITY  
AGAINST DEFENDANT LOUIS. THE PLAINTIFF  
DISAGREES. DEFENDANT LOUIS WAS ASSIGNED  
AS TOUR COMMANDER DURING THE TIME THE  
PLAINTIFF WAS ASSAULTED AND LEFT ON THE  
BUS BY DEFENDANT BRADSHAW, AS TOUR

COMMANDER OF A FACILITY IT IS HIS LEGAL OBLIGATION TO ENSURE ALL INMATES ARE PROVIDED ADEQUATE MEDICAL AS WELL AS TO ENSURE THE OFFICERS IN HIS COMMAND ARE FOLLOWING RULES AND REGULATIONS.

DEFENDANT LOUIS HAS MANY TIMES BEFORE NOT ADEQUATELY PROVIDED INMATES IN HIS CUSTODY WITH MEDICAL CARE WITH HIS DEPARTMENT DISCIPLINARY RECORD AS EVIDENCE OF THIS CLAIM, (SEE EXHIBIT G) AND DEPARTMENT OF CORRECTIONS RULES AND REGULATIONS 3.05.120: STATES "MEMBERS OF THE DEPARTMENT ARE RESPONSIBLE FOR THE EFFICIENT PERFORMANCE OF THEIR DUTIES AND FOR THE PROPER SUPERVISION OF ANY STAFF AND INMATES UNDER THEIR DIRECTION", (SEE EXHIBIT F). ALSO, DEFENDANT LOUIS FAILED TO ADHERE TO DEPARTMENT DIRECTIVE 4516R-B WHICH STATES "INMATES MUST BE AFFORDED MEDICAL ATTENTION BY MEDICAL STAFF AS SOON AS PRACTICABLE, BUT NOT MORE THAN 4 HOURS FOLLOWING A USE OF FORCE INCIDENT." WHEN DEFENDANT LOUIS GAVE AN DIRECT ORDER TO DEFENDANT BRADSHAW TO LEAVE THE PLAINTIFF ON THE BUS AFTER THE USE OF FORCE AND HAS ENGAGED IN THESE BEHAVIORS MANY TIMES WITH DEFENDANT LOUIS DEPARTMENT

DISCIPLINARY record as evidence of this claim, (see EXHIBIT G). FOR THE reasons stated the PLAINTIFF requests that the SUPERVISORY LIABILITY claim AGAINST DEFENDANT ~~JOSEPH~~ LOUIS SHOULD NOT BE DISMISSED.

IN Point IV THE DEFENDANTS CLAIM THE PLAINTIFF'S CLAIM FOR MUNICIPAL LIABILITY FAILS. THIS CLAIM BY THE DEFENDANTS IS FALSE AND MISLEADING. IN THE ANSWER TO THE COMPLAINT DOCUMENT #22 IN THE DOCKET OF THIS CASE FILED 4/19/21 ON PAGE(4) THE CITY ADMITS THAT "DEFENDANT LOUIS AND DEFENDANT BRADSHAW WERE EMPLOYED BY THE CITY OF NEW YORK" AND ALSO ADMITTED THE CITY IN THE SAME DOCUMENT THAT "THE CITY OF NEW YORK IS AWARE OF AND COMPLIES WITH ITS LEGAL OBLIGATIONS TO INMATES IN ITS CUSTODY", (SEE EXHIBIT G-2). THE DEFENDANT CITY FAILED TO PROPERLY TRAIN ITS EMPLOYEES WHICH RESULTED IN THE INJURIES SUSTAINED TO THE PLAINTIFF, EVEN AFTER THE MULTIPLE VIOLATIONS OF RULES AND REGULATIONS WHICH INCLUDED USES OF FORCE, THE CITY DID NOT IMPLEMENT ANY NEW TRAINING FOR THE DEFENDANTS BRADSHAW AND LOUIS, (SEE EXHIBIT E).

THE CITY HAS A POLICY OF ALLOWING ITS EMPLOYEES TO COMMIT SERIOUS OFFENSES AGAINST INMATES AND GIVING THEM A "SLAP ON THE WRIST" BY PUNISHING THEM BY TAKING VACATION DAYS EVEN WHEN THEY POSSESSED EVIDENCE OF THE DEFENDANTS PUNCHING INMATES, USING PEPPER SPRAY ILLEGALLY, AND NOT PROVIDED ADEQUATE MEDICAL TO INMATES, (SEE EXHIBIT C, D, E, F AND G) ALSO ALLOWING ITS EMPLOYEES TO FALSIFY GOVERNMENT DOCUMENTS AND ENGAGE IN CONDUCT UNBECOMING OF AN EMPLOYEE OR OFFICER AND MAKING FALSE OFFICIAL STATEMENTS EVEN THOUGH IN THE CITY'S RULES AND REGULATIONS 3:20.030 IT STATES THAT "MEMBERS FOUND GUILTY OF THOSE OFFENSES MAY BE DISMISSED FROM THE DEPARTMENT." (SEE EXHIBIT F). THE CUSTOMS AND PRACTICES ABOVE NOT ONLY PROVE MUNICIPAL LIABILITY IN THIS MATTER BUT THE DEFENDANT CITY'S FAILURE TO TRAIN AMOUNT TO DELIBERATE INDIFERENCE WHEN KNOWING THEIR EMPLOYEES DEFENDANT BRADSHAW AND LOVIS ARE ENGAGING IN THESE VICIOUS BEHAVIORS AND THE CITY IS ALLOWING IT TO OCCUR BY KEEPING THE DEFENDANTS EMPLOYED IN THE CITY

of New York's Department of Correction AND THEY CONTINUE TO ENGAGE IN THESE UNLAWFUL ACTS KNOWING THAT THE ONLY PUNISHMENT WOULD BE A CANCELLATION OF VACATION DAYS TAKEN AWAY FROM THEM. ~~IN ALL ACTUALITY IF A CITIZEN WAS~~ TO engage in the behaviors mentioned in (EXHIBIT G, D, E) THEY WOULD BE DEEMED CRIMINAL AND POSSIBLY come with jail time, BUT SINCE THE DEFENDANT CITY HAS ENGAGED IN ITS CUSTOM OF GIVING ITS EMPLOYEES LIKE DEFENDANTS Bradshaw and Louis "SLAPS ON THE WRISTS" MAKES THEM FEEL ABOVE THE LAW AND BASICALLY ALLOWED them, the Defendants, to continue with such criminally VICIOUS acts which resulted in the PLAINTIFF INJURIES AND THE FILING OF THIS COMPLAINT IN THIS COURT. WITH THE evidence and reasons stated herein THE COURT SHOULD NOT DISMISS THE FEDERAL MUNICIPAL LIABILITY CLAIMS MADE BY THE PLAINTIFF.

for the foregoing reasons, THE PLAINTIFF respectfully requests the court to DENY THE DEFENDANTS MOTION FOR SUMMARY

JUDGEMENT, AND GRANT whatever further relief to the PLAINTIFF AS well the Relief Requested in the COMPLAINT BY the PLAINTIFF AND ANYTHING else the court MAY DEEM JUST and PROPER.

Respectfully submitted,

x P.R. Peter Rodriguez #22B2287  
x 10/23/22 PLAINTIFF PRO SE

Five Plants Correctional Facility  
CALLER BOX 400, State Route 96  
ROMULUS, NY 14541

• EXHIBIT A-1



**CITY OF NEW YORK - DEPARTMENT OF CORRECTION**  
**OFFICE OF CONSTITUENT AND GRIEVANCE SERVICES**  
**INMATE STATEMENT FORM**



**Form.: 7101R-A  
Eff.:9/14/18  
Ref.: Dir. 3376R-A**

Inmate's Name:	Book & Case #:	Ref.: Dir. 3376R-A
Facility:	Housing Area:	NYSID #:
	Date of Incident:	Date Submitted:

All grievances must be submitted within ten business days after the incident occurred, unless it's a sexual abuse or harassment allegation. The inmate filing the grievance must personally prepare this statement. Upon collection by the Office of Constituent and Grievance Services (OCGS) staff, OCGS staff will time-stamp and issue it a grievance reference number. OCGS staff shall provide the inmate with a copy of this form as a record of receipt.

**Grievance:**

**Action Requested by Inmate:**

**Please read below and check the correct box:**

**Do you agree to have your statement edited for clarification by OCCS at the time of filing?**

Yes  No

**Do you need the OCGS staff to write the grievance for you?**

Yes  No

**Have you filed this grievance with a court or other agency?**

Yes  No

**Did you require the assistance of an interpreter?**

Yes  No

**Inmate's Signature:**

Date of Signature:

**FOR DOC OFFICE USE ONLY**

**OCGS MUST PROVIDE A COPY OF THIS FORM TO THE INMATE AS A RECORD OF RECEIPT.**

**THIS FORM IS INVALID UNLESS SIGNED BY THE INMATE AND GRIEVANCE COORDINATOR**

<b>TIME STAMP</b>	<b>Grievance Reference #</b>	<b>Category:</b>
	<b>Office of Constituent and Grievances Services Coordinator/Officer Signature:</b>	











EXHIBIT  
A-4

		CORRECTION DEPARTMENT CITY OF NEW YORK			
		INJURY TO INMATE REPORT		Page 1 of 2 Pages	Form #: #167R-A Rev.: 01/31/08 Ref.: Dr. #4516R-A
INSTRUCTIONS: Original Report to Security, One copy to Clinic Lock Box, One Copy to Inmate Medical File.					
Command:	OBCC	Date:	1/18/19	COD/UOF #:	FY19-1699
TO BE COMPLETED BY EMPLOYEE (PLEASE PRINT CLEARLY).					
Inmate Name (Last Name, First Name): Rodriguez, Peter					
Location:	Mun. Intake	Work:	NYSID #:	Book & Case/Sent.#: 09839798P 3491603090	
Details: On Friday, January 18 <sup>th</sup> , 2019 I C/O Davis #4096 was working Main Intake during the 0800x1200 hour of duty while receiving inmate Rodriguez, Peter Bl#749 (1603090 NYSID 09839798P from GRV), who inmate stated injury to his hands, claiming the mechanical restraints were too tight.					
Supervisor Notified (Print Last Name, First Name, Rank, Shield #): Thompson Captain 1021			Date:	V/18/19	Time: 1220 Hrs.
Employee: <input type="checkbox"/> (Did) <input checked="" type="checkbox"/> (Did Not) Witness This Injury.		Employee Signature:	Rank/Tittle:	Shield/I.D.#: 4096	
TO BE COMPLETED BY MEDICAL STAFF ONLY - (PLEASE PRINT CLEARLY)					
Date of Injury:	Reported for Medical Attention:	Inmate Refused Medical Attention:	Visible Injuries:		
1/18/19	Date 1/18/19 Hrs.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Nature of Injury and Cause:			Medical Staff Must Note Location of Injury:		
<p>Patient found to have tender swelling dorsum (R) hand showing being hit with handcuff</p> <p>(R) Hand Fracture</p> <p>R/L Fracture (R) Hand</p> <p>(R) Refused to walk X-ray</p> <p>(R) Hand X-ray requested</p>					
Treated By/Examined By (Print and Sign Full Name): JST-JAVIER, RS			Title: RS		
Referrals to Other Medical Services (If Yes, Document Medical Findings):			<input type="checkbox"/> Yes <input type="checkbox"/> No		
Treated By/Examined By (Print and Sign Full Name): JST-JAVIER, RS			Title: RS		
Please Check Disposition: <input type="checkbox"/> Return to Housing Area <input type="checkbox"/> Work Release _____ Days <input type="checkbox"/> Light Duty _____ Days <input type="checkbox"/> Return to Work Assignment <input type="checkbox"/> Re-Exam _____ Days <input type="checkbox"/> Refer to Clinic <input type="checkbox"/> Return to School					
Transfer to Hospital (indicate Name of Hospital):			<input type="checkbox"/> Life Threatening Emergency <input type="checkbox"/> Routine		
Other (Please Specify):					
Treated By (Print Full Name and Title, Sign Name):			Date:	Time:	Hrs:
I certify that the cause of injury as stated herein is to my knowledge true and medical attention was provided:					
Inmate Signature:	RODRIGUEZ TO SIGNS	B&C / Sentence #:	34916 03090	Date:	1/18/19
Witnessed By (Signature):	Mas	Rank/Tittle:	C.O.	Shield I.D. #:	7910
				Date:	1/18/19





















































15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph labeled "15" of Exhibit A to the Answer to the Complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph labeled "16" of Exhibit A to the Answer to the Complaint.

17. Denies the allegations set forth in the paragraph labeled "17" of Exhibit A to the Answer to the Complaint, except admits only that Plaintiff was transported between facilities during the 03:00 and 11:00 tour on or about January 18, 2019.

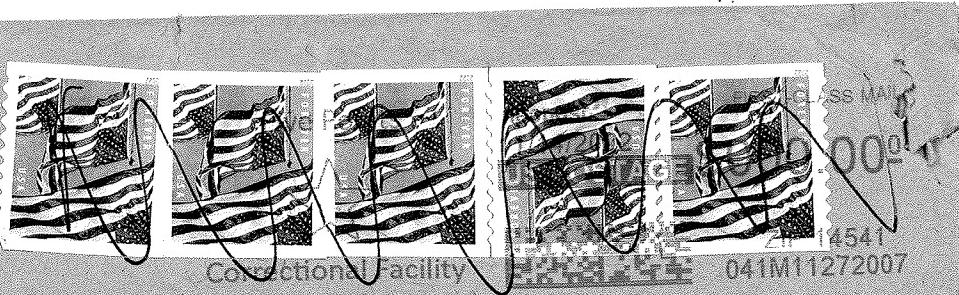
18. Denies the allegations set forth in the paragraph labeled "18" of Exhibit A to the Answer to the Complaint, except admits only that Jean Louis was employed by the New York City Department of Correction as an Assistant Deputy Warden and Dwayne Bradshaw was employed by the New York City Department of Correction as a Correction Officer on or about January 17, 2019, and further states that to the extent the allegations set forth in the paragraph labeled "18" of Exhibit A to the Answer to the Complaint constitute conclusions of law rather than averments of fact, states that no response is required.

19. Denies the allegations set forth in the paragraph labeled "19" of Exhibit A to the Answer to the Complaint, except to the extent they constitute conclusion of law rather than averments of fact, states no response is required.

20. Denies the allegations set forth in the paragraph labeled "20" of Exhibit A to the Answer to the Complaint, except to the extent they constitute conclusions of law rather than averments of fact, states no response is required.

21. Denies the allegations set forth in the paragraph labeled "21" of Exhibit A to the Answer to the Complaint, and states that the City of New York is aware of and complies with its legal obligations to inmates in its custody.

Peter Rodriguez  
BIN # 22B2287  
Five Points Correctional Facility  
State Route 96, P.O. Box 119  
Romulus, NY 14541



*envelope*  
United States District Court  
Southern District of New York  
Pro Se Intake RM 205  
500 Pearl Street  
New York, NY 10007

SDNY PRO SE OFFICE  
12/10/2017 10:30 AM

Five Points Correctional